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1 bank account that Victor controlled, the checks did not have the family members' names on
2 them, and they were consecutively numbered.²

3 The Factual and Legal Analysis noted that while the available record provided
4 information "that could be viewed as suggesting that Victor and/or his businesses engaged in
5 knowing and willful activity by making contributions in the name of another, an investigation
6 [was] needed to resolve this issue."³

7 We served Commission subpoenas to Victor and other respondents.⁴ Instead of
8 responding to his subpoena, Victor informed us that he wished to admit to making contributions
9 in the name of another. Victor signed an affidavit in which he states under penalty of perjury
10 that he and TGDS made \$20,000 in contributions in the names of one business associate, Randall
11 Harris; two employees, Marta Dani and Nana Yoshioka; and five family members, Victor's wife
12 and four children. See Attachment 1. All of these contributions were addressed in the
13 Commission's Factual and Legal Analysis.⁵ The Affidavit further acknowledges that Victor's

² Factual & Legal Analysis at 7-8, MURs 7005 and 7056 (Adam H. Victor and Transgas Development Systems, LLC) ("Victor and TGDS F&LA").

³ Victor and TGDS F&LA at 12.

⁴ See Memorandum to the Commission, Circulation of Discovery Documents (Nov. 7, 2016); Certification, MURs 7005 and 7056 (Nov. 10, 2016); Reason to Believe Notification, Factual & Legal Analysis, and Subpoena and Order to Adam H. Victor (Nov. 14, 2016).

⁵ Affidavit of Adam H. Victor ("Victor Aff.") (Mar. 23, 2017); Victor and TGDS F&LA. Victor's affidavit does not admit to reimbursing \$3,000 in contributions attributed to Garry Coulter. See Victor and TGDS F&LA at 5-6. Coulter denies that his contributions were reimbursed, *see id.* at 6, the only alleged conduit in this matter to do so, and we do not currently have other evidence showing that Coulter's contributions were reimbursed. See also Randall Harris's December 16, 2016, response to the Commission's reason to believe notification, in which Harris admits to serving as a conduit although he denied as much in his responses to the Complaints.

actions constituted knowing and willful violations of the Act.⁶

In the Affidavit, Victor specifically admits that he instructed Harris, Dani, and Yoshioka to make contributions to the Manchin and Cain Committees with the express understanding that Victor would reimburse them for making the contributions.⁷ For each reimbursement, Victor issued a check payable to the conduits to cover their respective contribution, drawn on the account of TGDS.⁸ Each check was issued in close proximity to each conduit's respective contribution.⁹ The table below identifies the specific contributions that Victor reimbursed to these conduits:

Conduit	Recipient	Amount	Contribution Date	Victor Payment
Randall Harris	Manchin Committee	\$2,500	December 30, 2011	\$2,500 on December 29, 2011
Marta Dani	Cain Committee	\$2,500	November 9, 2011	\$5,000 ¹⁰ on or about November 9, 2011
Nana Yoshioka	Cain Committee	\$2,500	On or about November 9, 2011	\$2,500 on November 9, 2011
	TOTAL	\$7,500		\$7,500

Victor also admits that he made contributions to the Cain Committee in the names of his wife and four children. Victor states that around the time of the November 11, 2011, Herman Cain fundraiser, he purchased with his personal funds in the Adam Victor Grantor Trust (of

⁶ Victor Aff. ¶ 10. Victor's counsel has confirmed that Victor is the subject of a criminal investigation in connection with his role in these contributions.

⁷ Victor Aff. ¶¶ 4, 6-7.

⁸ *Id.* TGDS is a privately held single-member LLC that is not treated as a corporation by the Internal Revenue Service. Victor completely owns and controls TGDS. *Id.* ¶ 2.

⁹ *Id.* ¶¶ 4, 6-7.

¹⁰ Victor's \$2,500 reimbursement of Dani's contribution was a subset of a \$5,000 payment to her. *Id.* ¶ 6.

1 which he is the sole beneficiary and trustee) five bank checks from Signature Bank numbered
2 111004934 through 111004938, each in the amount of \$2,500.¹¹ He also states that after he
3 presented the five checks to the Cain Committee, a representative of that committee sought
4 clarification as to the identity of the five contributors.¹² Victor had a representative inform the
5 Cain Committee that the contributors were his wife, Jo-Ann Bruggemann, and his four children,
6 Adam, Alexia, Alia and Jo-Ayla Victor, and they had made contributions in amounts totaling
7 \$12,500 (5 contributions at \$2,500 each = \$12,500). However, his wife and four children did not
8 provide the funds to make these contributions.¹³

9 The Act provides that a contribution includes "any gift, subscription, loan, advance, or
10 deposit of money or anything of value made by any person for the purpose of influencing any
11 election for Federal office."¹⁴ The term "person" for purposes of the Act and Commission
12 regulations includes partnerships, corporations, and "any other organization or group of
13 persons."¹⁵ A contribution from an LLC that elects to be treated as a partnership shall be
14 attributed to its members in direct proportion to their shares of the profits, or by agreement of the
15 partners, subject to restrictions,¹⁶ or, in the case of a single-member LLC, to its sole member.¹⁷
16 In the 2012 election cycle, the Act prohibited a person from making contributions to a candidate

¹¹ *Id.* ¶ 8.

¹² *Id.*

¹³ *Id.*

¹⁴ 52 U.S.C. § 30101(8)(A).

¹⁵ *Id.* § 30101(11); 11 C.F.R. § 100.10.

¹⁶ *Id.* § 110.1(g)(2), (e)(1)-(2).

¹⁷ *Id.* § 110.1(g)(4).

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1 which, in the aggregate, exceeded \$2,500 per election.¹⁸ The Act further provides that no person
2 shall make a contribution in the name of another or knowingly permit his or her name to be used
3 to effect such a contribution.¹⁹

4 Victor confirms in his Affidavit that he "made contributions in others' names in amounts
5 totaling \$20,000 using [his] personal funds in the Adam Victor Grantor Trust and the funds of
6 [TGDS]."²⁰ Further, Victor "acknowledge[s] that [his] actions in reimbursing the contributions
7 described above constituted knowing and willful violations of the [Act]."²¹

8 In view of Victor's admissions in his Affidavit, we conclude that Victor knowingly and
9 willfully violated 52 U.S.C. §§ 30116(a) and 30122.

10 **III. PROPOSED CONCILIATION PROVISIONS AND CIVIL PENALTY**

11 We recommend the Commission enter into pre-probable cause conciliation with Victor to
12 resolve his violations of the Act, and have attached a conciliation agreement for approval.²²

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¹⁸ *Id.* See 11 C.F.R. § 110.1(b)(1).

¹⁹ 52 U.S.C. § 30122. *See also* 11 C.F.R. § 110.4(b); *United States v. O'Donnell*, 608 F.3d 546, 549, 553 (9th Cir. 2010).

²⁰ Victor Aff. ¶ 9.

²¹ *Id.* ¶ 10. The Act addresses violations of law that are knowing and willful. *See* 52 U.S.C. §§ 30109(a)(5)(B) and 30109(d). The knowing and willful standard requires knowledge that one is violating the law. *Federal Election Commission v. John A. Dramesi for Congress Committee*, 640 F. Supp. 985, 987 (D. N.J. 1986). A violation of the Act is considered knowing and willful if the "acts were committed with full knowledge of all the relevant facts and a recognition that the action is prohibited by law." 122 Cong. Rec. 12, 197, 12,199 (May 3, 1976). Evidence does not have to show that the respondent had a knowledge of the specific statute or regulation allegedly violated, just that the respondent acted voluntarily and was aware that his conduct was unlawful; an inference of knowing and willful conduct may be drawn from the defendant's scheme to disguise the source of funds used in illegal activities. *United States v. Danielczyk*, 917 F. Supp. 2d 573 (E.D. Va 2013).

²² Victor has signed agreements that tolled the Statute of Limitations for an additional 180 days. Accordingly, the revised Statute of Limitations dates range from October 1, 2017 (earliest) to December 4, 2017 (latest).

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IV. RECOMMENDATIONS

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- 10 1. Enter into pre-probable cause conciliation with Adam H. Victor prior to a finding of
- 11 probable cause to believe.
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- 13 2. Approve the attached proposed joint conciliation agreement.

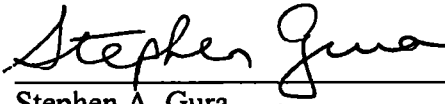
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3. Approve the appropriate letter.

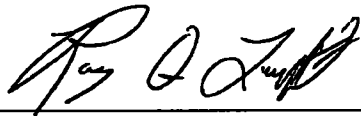
Lisa J. Stevenson
Acting General Counsel

Kathleen M. Guith
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4.5.17
Date


Stephen A. Gura
Deputy Associate General Counsel


Mark Allen
Assistant General Counsel


Roy Q. Lockett
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